

1                   UNITED STATES DISTRICT COURT  
2                   EASTERN DISTRICT OF NEW YORK

3                   UNITED STATES OF AMERICA,

X  
4                   : 11-CR-623  
5                   : (JG)

6                   : -against-

7                   : United States Courthouse  
8                   : Brooklyn, New York

9                   AGRON HASBAJRAMI,

10                  : Monday, March 2, 2015  
11                  : 3:30 p.m.

12                  DEFENDANT.

X

13                  TRANSCRIPT OF CRIMINAL CAUSE FOR STATUS CONFERENCE  
14                  BEFORE THE HONORABLE JOHN GLEESON  
15                  UNITED STATES DISTRICT COURT JUDGE

16                  A P P E A R A N C E S:

17                  For the Government:           LORETTA E. LYNCH, ESQ.  
18   United States Attorney  
19   BY: SETH D. DUCHARME, ESQ.  
20   SARITHA KOMATIREDDY, ESQ.  
21   Assistant United States Attorneys

22                  For the Defendant           BY: STEVE ZISSOU, ESQ.  
23                  Agron Hasbajrami:           MICHAEL K. BACHRACH, ESQ.

24                  Also Present:               DANYA ATIYEH,  
25   Department of Justice  
   ALBANIAN TOSK LANGUAGE INTERPRETING  
   BY: UK LUSHI

Courtroom Deputy: Ilene Lee

Court Reporter: Mary Agnes Drury, RPR  
Telephone: (718) 613-2615  
E-mail: Mad78910@yahoo.com

Proceedings recorded by computerized stenography. Transcript produced by Computer-aided Transcription.

PROCEEDINGS

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1 (In open court.)

2 (Defendant present in open court.)

3 COURTRoom DEPUTY: All rise, the United States  
4 District Court for the Eastern District of New York is now  
5 in session, the Honorable John Gleeson is now presiding.

6 (Honorable John Gleeson takes the bench.)

7 COURTRoom DEPUTY: Calling Criminal Cause for  
8 Status Conference in Docket No. 11-CR-623, *United States of*  
9 *America against Agron Hasbajrami.*

10 THE COURT: Will counsel please state their  
11 appearances for the record, please.

12 MR. DuCHARME: For the United States, Seth  
13 DuCharme, and I'm joined by Saritha Komatireddy and Danya  
14 Atiyeh from the National Security Division. Good afternoon,  
15 your Honor.

16 MR. ZISSOU: Steve Zissou and Michael Bachrach for  
17 Mr. Hasbajrami.

18 THE COURT: Good afternoon. Please swear  
19 interpreter in.

20 (Interpreter was sworn in.)

21 THE COURT: Okay. I put this on because I have  
22 denied the motion to suppress and in the docket entry doing  
23 so gave you some food for thought. I thought I'd touch base  
24 with you on your thoughts about how we're going to proceed.

25 We've obviously got a little bit of business left

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1 to transact in connection with the CIPA Section 4, and then  
 2 we have either a trial date or a disposition.

3 It's an unusually postured case. Obviously, the  
 4 defendant pled guilty and was sentenced, but the case was  
 5 exhumed as far as the proceedings by me were concerned. Now  
 6 we've gotten a resolution and I wonder what you think,  
 7 that's why I asked you. Maybe you can share that with me.

8 MR. ZISSOU: Well, Judge, I'm happy to go first.  
 9 Obviously as you know, it was our publicly-filed  
 10 recommendation that Mr. Hasbajrami not proceed with the  
 11 underlying motion. So it makes sense, obviously -- it's  
 12 obvious that our view is we would embrace your Honor's  
 13 suggestion. We think it's a fair one, to be sure, and I'd  
 14 certainly recommended it to him.

15 We have just commenced that discussion with him.  
 16 We met with him on Friday at length. Obviously, as you  
 17 know, it takes a little time to wrap your head around it  
 18 when you're in the position that he is in, so I know that he  
 19 still has some questions about it, but just as counsel, we  
 20 think that it was a reasonable and prudent one that the  
 21 Court suggested. We think it's fair, and our recommendation  
 22 is for him to accept it. And we would encourage the  
 23 government to make it available.

24 THE COURT: Yeah, I'm not a position to make that  
 25 course available. So why don't we hear from the people who

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1 are.

2 MR. DuCHARME: Sure. Your Honor, in short, we  
3 don't have a final position yet with respect to the -- what  
4 a plea offer might be at this juncture in the case.  
5 Mr. Zissou and I have spoken about it conceptually,  
6 certainly. The issue has been raised both in our office and  
7 with the National Security Division.

8 I think, you know, to the extent that we're going  
9 to make another plea offer, I think we can make that  
10 relatively soon, we have a decision maybe in the next couple  
11 of weeks, to see whether or not it makes sense to proceed to  
12 trial or not.

13 Having been down this road before, I'm reluctant  
14 to be optimistic about the fact that the case could be  
15 resolved by plea, and so we are certainly preparing to  
16 proceed to trial with that possible eventuality.

17 But maybe it makes sense, Judge, to -- if you'd  
18 like, either we can set a date by which we can communicate  
19 to the Court whether a plea offer has been extended or we  
20 can come back before you and give you an update or whatever  
21 your preference.

22 THE COURT: There is no need to schlep back in,  
23 just let me know. In the meantime, I'm going to assume that  
24 we're going forward. And what can you tell me in terms of  
25 what can reasonably be expected. If you try this case, are

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1 there going to be any applications under Rule 15 for  
2 example? 03:51

3 MR. DuCHARME: No. 03:51

4 MR. ZISSOU: I don't anticipate that either,  
5 Judge. 03:51

6 THE COURT: All right. 03:51

7 MR. ZISSOU: There is -- we should share with you  
8 -- I'm sorry, was your Honor finished? 03:51

9 THE COURT: No, go ahead. 03:51

10 MR. ZISSOU: There has been some recent classified  
11 disclosure that is of a quality that I won't describe out of  
12 the CIPA section, but that is of a quality materially  
13 different than what we had prior to the last time we  
14 litigated the case before your Honor, before the guilty  
15 plea. That material is not in a format that either  
16 Mr. Bachrach or I could understand, and will result in our  
17 need for at least two additional cleared personnel who could  
18 explain what's on it to us. 03:52

19 Frankly, we don't even -- we can't appreciate the  
20 scope of it. One of the things we've done is asked one of  
21 the attorneys for the government for them to consider  
22 allowing us to discuss it with our client, because in the  
23 absence of that, it would -- I think it would put a  
24 difficult -- it would make it difficult for us, I should  
25 say, to adequately prepare, so -- there are some new things 03:53

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1 going on. At the same time, I'm not unmindful of the fact  
2 that the case has gotten whiskers on it, as your Honor  
3 pointed out the last time.

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4 We're not a position to say to you, here is what  
5 we're going to produce. This is a lot of new material that  
6 is directly related to the client, it's not far afield, it's  
7 close. So we have a funding order before the Court that  
8 your Honor is considering, we'll have to add to that. We've  
9 invited Mr. Dratel who you know is present in court today,  
10 he assisted on the submissions. We invited him to be  
11 present in the event that your Honor was inclined to have a  
12 shorter trial schedule or if you were going to set a trial  
13 schedule for today.

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14 Obviously, we can comply with whatever direction  
15 your Honor sets. We would need the support, obviously. So  
16 I guess what my suggestion is, rather than you fixing a  
17 trial date, it might be better if your Honor fixed a further  
18 status conference. Hopefully, by then. We've worked out  
19 the discovery issues. And if not, we can bring it to your  
20 Honor's attention for your own resolution.

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21 THE COURT: When was the funding order filed or a  
22 request for a funding order?

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23 MR. BACHRACH: Approximately two weeks ago, your  
24 Honor. I would have to double check.

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25 MR. ZISSOU: It was actually a sealed file.

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1           THE COURT: It doesn't ring a bell with me. Have       03:54  
2 you seen it?   03:54

3           LAW CLERK: I'm not sure.                                       03:54

4           THE COURT: I'm sure there are some judges for       03:54  
5 whom what you just said is acceptable, but it's too opaque   03:54  
6 for me. Is it a funding request?                                   03:54

7           MR. ZISSOU: Yes, funding interpreters and the       03:55  
8 like, paralegal.   03:55

9           THE COURT: We'll find it and take a look at it.      03:55

10          MR. ZISSOU: Depending on what your Honor decides   03:55  
11 today, we'll probably have to supplement it depending on,   03:55  
12 again, the schedule your Honor so suggests.                   03:55

13          My own preference would be, since I think your       03:55  
14 Honor's suggestion was a fair one, and I think under all the   03:55  
15 circumstances it's appropriate, we've made our reasons why   03:55  
16 clear to the attorney for the government, it would seem to   03:55  
17 me it would be prudent to allow the parties a sufficient   03:55  
18 opportunity to resolve that, before you fix a trial date.   03:55  
19 But again, as your Honor knows, we'll comply with whatever   03:55  
20 directive we have.   03:55

21          THE COURT: Right. Okay. I think we are going to      03:55  
22 we need to plan. How long is this trial going to take, if   03:55  
23 you have to try it?   03:55

24          MR. DuCHARME: A week to two weeks from start to    03:55  
25 finish, Judge.   03:55

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1           THE COURT: Yeah, I think we ought to pick a date           03:55  
2 so we can all plan around it and have it sufficiently far           03:56  
3 out so that we leave enough room to take care of what we've           03:56  
4 got to take care of in the meantime.           03:56

5           Ilene, what are the jury return dates in the month           03:56  
6 of July?           03:56

7           COURTROOM DEPUTY: July 13th and the 27th.           03:56

8           THE COURT: And prior to the 13th, in June?           03:56

9           COURTROOM DEPUTY: June 29th.           03:56

10          MR. ZISSOU: Does September catch your eye, Judge?           03:56

11          THE COURT: No, it doesn't. So let's -- why don't           03:56  
12 we plan around June 29th.           03:56

13          MR. ZISSOU: I'm not sure I can accommodate that,           03:56  
14 Judge. I have a trial that's -- could I just have a moment,           03:56  
15 your Honor?           03:56

16          THE COURT: Sure.           03:56

17          (Pause.)           03:56

18          MR. ZISSOU: Oh, I'm sorry, Judge, I beg your           03:57  
19 pardon. I had something with Judge Johnson and that was           03:57  
20 rescheduled to September, so I'm glad that didn't adopt           03:57  
21 September. July 27th would be --           03:57

22          THE COURT: It would be two days earlier, I think           03:57  
23 then.           03:57

24          MR. ZISSOU: We're talking about July?           03:57

25          THE COURT: No, I was talking about June,           03:57

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1	June 29th.	03:57
2	MR. ZISSOU: July 27th?	03:57
3	THE COURT: No. June.	03:58
4	MR. ZISSOU: No. I'm saying the other "J" month.	03:58
5	THE COURT: No, I'm going to be out the last week	03:58
6	of July, most of that week. So let's get the case tried.	03:58
7	It's been around forever, if it survives this potential	03:58
8	resolution and condition. Obviously, the impetus for that	03:58
9	suggestion is fair is fair, belated disclosure of the	03:58
10	Rule 702 or the Section 702 surveillance gave them a shot.	03:58
11	I'll get an opinion, it doesn't matter too much what I	03:58
12	write, sort of get it up to the Court of Appeals, it seems	03:58
13	to me.	03:58
14	MR. DuCHARME: Judge, with respect to the	03:58
15	June 29th trial date, if that is the trial, it likely won't	03:58
16	be me, but we have many able bodied prosecutors in our	03:58
17	office, so that should not be determinative. I wanted to	03:58
18	apprise the Court.	03:58
19	THE COURT: It's not, but I'm curious, what date	03:58
20	might be set that results in it being you?	03:59
21	MR. DuCHARME: Well, I think you said the other	03:59
22	return dates were July 13th and July 27th?	03:59
23	THE COURT: Yes.	03:59
24	MR. DuCHARME: The 13th or the 27th, it could be	03:59
25	me.	03:59

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1	THE COURT: Could we get the case in before the	03:59
2	end of the -- could we get the case in within two weeks?	03:59
3	MR. DuCHARME: Yes, your Honor. I think the	03:59
4	government's case will be five days at most.	03:59
5	THE COURT: You wanted it in July, right?	03:59
6	MR. ZISSOU: I did, Judge. I'm just thinking of	03:59
7	dates that pop into my head. Would your Honor -- could we	03:59
8	invite Mr. Rucker up here to get his input as to -- we're	03:59
9	going to need a Turkish-cleared interpreter and an	03:59
10	Albanian-cleared interpreter.	03:59
11	THE COURT: You can talk to him about that. If	03:59
12	you've got a problem, you can bring it to my attention.	03:59
13	MR. ZISSOU: Will do.	03:59
14	THE COURT: All right. Let's go July 13th. It	03:59
15	gives you half a loaf and it gets us Mr. DuCharme, it's a	03:59
16	win-win.	04:00
17	MR. ZISSOU: I would not want to proceed without	04:00
18	him.	04:00
19	MR. DuCHARME: Thanks, Judge.	04:00
20	THE COURT: What else? What's in my court?	04:00
21	Obviously I owe you an opinion, but you'll get that in due	04:00
22	course. What's in my court?	04:00
23	MR. DuCHARME: I think we're just resolving the	04:00
24	CIPA issues, your Honor.	04:00
25	THE COURT: How are we doing on that?	04:00

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1 MR. DuCHARME: We're making progress, your Honor,  
2 that's all I can say publicly.

3 THE COURT: Can you give me a timeframe hint?

4 MS. KOMATIREDDY: We'll make the timeframe that  
5 you suggested, your Honor.

6 THE COURT: Remind me what that was.

7 MR. DuCHARME: That was 30 days, right?

8 MS. KOMATIREDDY: March 12th.

9 THE COURT: Got it. Okay. What other motions?  
10 There are some motions that have not been decided that are  
11 just stuff out there, 3500. Is there anything you really  
12 want to bring to my attention now?

13 MR. ZISSOU: Not at the moment, Judge, but we're  
14 certainly going to go over the new material and if something  
15 comes up, we'll certainly bring it to your Honor's  
16 attention.

17 THE COURT: Okay.

18 MR. ZISSOU: Did you want to pick a status  
19 conference for various reasons?

20 THE COURT: Yeah, I don't know, what did you think  
21 makes sense?

22 MR. ZISSOU: I'm thinking probably a month, if  
23 there are CIPA issues they are classified or clearance  
24 issues, we'll have it resolved by then.

25 THE COURT: Okay. Ilene, and forgive me, I

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1 haven't seen this order, I'm sure it's hanging around  
2 somewhere, if we can't find it, we'll call you.

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3 COURTRoom DEPUTY: April 9th at 2:00.

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4 THE COURT: All right?

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5 MR. ZISSOU: That's fine, Judge. Thank you.

04:01

6 THE COURT: Has this case been declared complex?

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7 MR. ZISSOU: Many times.

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8 THE COURT: I'll declare it again a complex case  
9 for speedy trial purposes.

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10 MR. ZISSOU: I join in the request.

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11 THE COURT: Does that bring us to the conclusion  
12 of these proceedings?

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13 MR. DuCHARME: I think it does, your Honor.

04:02

14 THE COURT: Always a pleasure to see you all.

04:02

15 (Proceedings adjourned at 4:02 p.m.)

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